

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RECEIVED

Plaintiff

vs.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO. 1:05-cv-00147-SPB

HONORABLE DISTRICT COURT JUDGE
SEAN J. McLAUGHLIN

JAN 22 2007
CLERK
U.S. DISTRICT COURT

LEAVE TO FILE A NOTICE OF APPEAL PURSUANT
TO FED. R. APP.P 4(a)(1)(A)-4(a)(4)(A)
4(A)(4)(iv)-4(a)(4)(A)(vi)

NOW COMES the Plaintiff Darryl Orrin Baker, (hereinafter "PLAINTIFF"), and proceeding pro-se, and respectfully moves this Honorable Court for Leave to File a Notice of Appeal to the Third Circuit for review, because this Honorable Court dismissed the Plaintiff claims pursuant to F.R.CIV.P 12(b)(1) 12(b)(6) and 56(c). The Plaintiff request leave for the following:

- (1) That this Honorable Court overlooked material facts pursuant to 12(b)(1) and 12(b)(6) and Rule 56(c).
- (2) That a material fact existed for this Court to GRANT a Bench Trial.
- (3) That the Plaintiff has shown through documentary evidence that the Defendant's negligence acts were non-discretionary pursuant to the FTCA's Discretionary Function Exception when the Warden policy and regulations was violated.
- (4) That the Defendant's were the proximate cause of the Plaintiff's injuries at FCI-Mckean Medical Department.

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(5) That sovereign immunity was waived by the Defendant's when the Government employees violated the FTCA's Discretionary Function Exception.

(6) That compensatory damages and the claim for money damages that submitted to the Federal Agency should have been granted because a non-discretionary act was committed by the Defendant's Government Official Employee's.

CONCLUSION

The Plaintiff request Leave to File a Notice of Appeal Pursuant to 4((a)(1)-4(a)(4)(A) 4(a)(4)(iv)-4(a)(4)(A)(vi) of the Appellate Rules of Appellate Procedure.

ALSO, THE PLAINTIFF REQUEST THAT ALL DOCUMENTS AND BRIEF'S AND MOTION BE FOREWARDED TO THE THIRD CIRCUIT FOR REVIEW.

Respectfully submitted
BY: Darryl Baker
Darryl Orrin Baker
Reg. No. # 19613-039
Federal Prison Camp
P.O. Box 2000
Lewisburg, PA.
17837

EXECUTED JANUARY 12, 2007

January 12, 2007

United States District Court
Western District of Pennsylvania
Sean J. McLaughlin (JUDGE)
U.S. Courthouse, Room A-250
17 South Park Row
Erie, Pa. 16507

**RE: Motion for Request for Leave to File a Notice of Appeal Pursuant to
Fed. Rule Appellate Procedure Rule 3(a), Rule 4(a)-4(c)**

Dear Clerk of Court:

Please find inside a set of two (2) Appeals Motions and copies for Leave to File a Notice of Appeal to the Third Circuit for review of Civil Action No. # **05-147-Erie**, because the District Court no longer has jurisdiction of this case.

Thank you for your cooperation.

Respectfully submitted

BY: Darryl Baker
Darryl Orrin Baker
Reg. No. # 19613-039
Federal Prison Camp
P.O. Box 2000
Lewisburg, PA.
17837

ENCL:

**cc: UNITED STATES COURT OF APPEALS
THIRD CIRCUIT**